



**QUESTION NO. 1:**

Do you find Convolv has proven by a preponderance of the evidence that the accused Dell computers directly infringe one or more claims of the '473 patent because each element of the claim is met by the Dell computers?

Answer "Yes" or "No" for each claim:

Claim 7 \_\_\_\_\_

Claim 8 \_\_\_\_\_

Claim 9 \_\_\_\_\_

Claim 10 \_\_\_\_\_

Claim 14 \_\_\_\_\_

Claim 15 \_\_\_\_\_

**QUESTION NO. 2:**

Do you find Convolve has proven by a preponderance of the evidence that the accused Western Digital hard disk drives directly infringe one or more claims of the '473 patent because, for each claim, each element of the claim is met by the accused hard disk drives on their own?

Answer "Yes" or "No" for each claim:

Claim 7 \_\_\_\_\_

Claim 8 \_\_\_\_\_

Claim 9 \_\_\_\_\_

Claim 10 \_\_\_\_\_

Claim 14 \_\_\_\_\_

Claim 15 \_\_\_\_\_

**QUESTION NO. 3:**

Do you find Convolve has proven by a preponderance of the evidence that the accused Hitachi hard disk drives directly infringe one or more claims of the '473 patent because, for each claim, each element of the claim is met by the accused hard disk drives on their own?

Answer "Yes" or "No" for each claim:

Claim 7 \_\_\_\_\_

Claim 8 \_\_\_\_\_

Claim 9 \_\_\_\_\_

Claim 10 \_\_\_\_\_

Claim 14 \_\_\_\_\_

Claim 15 \_\_\_\_\_

**QUESTION NO. 4:**

Do you find Convolv has proven by a preponderance of the evidence that Dell actively induced others to infringe one or more claims of the '473 patent with respect to the accused Dell computers because, for each claim, (a) Dell encouraged and specifically intended to cause acts of direct infringement and (b) these acts of direct infringement actually occurred, and (c) Dell knew that these acts constituted infringement?

Answer "Yes" or "No" for each claim:      If yes, identify the acts of direct infringement and the persons/entities performing them:

Claim 7	_____
Claim 8	_____
Claim 9	_____
Claim 10	_____
Claim 14	_____
Claim 15	_____

**QUESTION NO. 5:**

Do you find Convolv has proven by a preponderance of the evidence that Western Digital induced others to infringe one or more claims of the '473 patent through its sales of accused disk drives because, for each claim, Western Digital (a) encouraged and specifically intended to cause acts of direct infringement, and (b) these acts of direct infringement actually occurred, and (c) Western Digital knew that these acts would constitute infringement?

Answer "Yes" or "No" for each claim:      If yes, identify the acts of direct infringement and the persons/entities performing them:

Claim 7	_____
Claim 8	_____
Claim 9	_____
Claim 10	_____
Claim 14	_____
Claim 15	_____

**QUESTION NO. 6:**

Do you find Convolv has proven by a preponderance of the evidence that Hitachi induced others to infringe one or more claims of the '473 patent through its sales of accused disk drives because, for each claim, Hitachi, (a) encouraged and specifically intended to cause acts of direct infringement, and (b) these acts of direct infringement actually occurred, and (c) Hitachi knew that these acts would constitute infringement?

Answer "Yes" or "No" for each claim:      If yes, identify the acts of direct infringement and the persons/entities performing them:

Claim 7	_____
Claim 8	_____
Claim 9	_____
Claim 10	_____
Claim 14	_____
Claim 15	_____

**QUESTION NO. 7:**

Do you find that Convolv has proven by a preponderance of the evidence that Dell contributed to the direct infringement of one or more claims of the '473 patent by others, because, for that claim, (a) Dell computers were a significant part of the claimed invention of the '473 patent, and (b) Dell computers were especially made or adapted for use in a way that infringes that claim, and (c) acts of direct infringement involving Dell computers actually occurred; and (d) Dell computers did not have any substantial non-infringing uses?

Answer "Yes" or "No" for each claim:      If yes, identify the acts of direct infringement and the persons/entities performing them:

Claim 7	_____
Claim 8	_____
Claim 9	_____
Claim 10	_____
Claim 14	_____
Claim 15	_____



**QUESTION NO. 8:**

Do you find that Convoke has proven by a preponderance of the evidence that Western Digital contributed to the direct infringement of one or more claims of the '473 patent by others by its sales of accused disk drives because, for that claim, Western Digital (a) provided a significant part of the claimed invention of the '473 patent, and (b) Western Digital hard disk drives were especially made or adapted for use in a way that infringes that claim, and (c) acts of direct infringement involving Western Digital hard drives actually occurred and (d) Western Digital hard disk drives did not have any significant non-infringing uses?

Answer "Yes" or "No" for each claim:      If yes, identify the acts of direct infringement and the persons/entities performing them:

Claim 7	_____
Claim 8	_____
Claim 9	_____
Claim 10	_____
Claim 14	_____
Claim 15	_____

**QUESTION NO. 9:**

Do you find that Convolv has proven by a preponderance of the evidence that Hitachi contributed to the direct infringement of one or more claims of the '473 patent by others by its sales of accused disk drives because, for that claim, (a) Hitachi provided a significant part of the claimed invention of the '473 patent, and (b) Hitachi hard disk drives were especially made or adapted for use in a way that infringes that claim, and (c) acts of direct infringement involving Hitachi hard drives actually occurred and (d) Hitachi hard disk drives did not have any significant non-infringing uses?

Answer "Yes" or "No" for each claim:      If yes, identify the acts of direct infringement and the persons/entities performing them:

Claim 7	_____
Claim 8	_____
Claim 9	_____
Claim 10	_____
Claim 14	_____
Claim 15	_____

**QUESTION NO. 10:**

For each claim, do you find that Defendants have proven anticipation by preponderance of the evidence because for that claim, every limitation of that claim was in the prior art at the time the patent was applied for (March 4, 1999)? “Yes” means the claims are invalid, and “No” means the claims are not invalid.

Answer “Yes” or “No” for each claim:

Claim 7 \_\_\_\_\_

Claim 8 \_\_\_\_\_

Claim 9 \_\_\_\_\_

Claim 10 \_\_\_\_\_

Claim 14 \_\_\_\_\_

Claim 15 \_\_\_\_\_

**QUESTION NO. 11:**

For each claim, do you find that Defendants have proven obviousness by a preponderance of the evidence because, for that claim, every limitation of that claim would have been obvious or obvious to try to someone skilled in the art at the time the patent was applied for (March 4, 1999)? “Yes” means the claims are invalid, and “No” means the claims are not invalid.

Answer “Yes” or “No” for each claim:

Claim 7 \_\_\_\_\_

Claim 8 \_\_\_\_\_

Claim 9 \_\_\_\_\_

Claim 10 \_\_\_\_\_

Claim 14 \_\_\_\_\_

Claim 15 \_\_\_\_\_

*If you have found that Dell, Western Digital, or Hitachi have infringed any of the claims and those claims are valid (i.e., you have answered “yes” to any of the claims in Question No. 1 through Question No. 9 and “no” to Question Nos. 10 and 11 for the corresponding claim, then answer Question Nos. 12-13. Otherwise, do not answer any more questions, and just sign and date the verdict form.*

**QUESTION NO. 12:**

Do you find by clear and convincing evidence that any of the following Defendants has willfully infringed the ‘473 patent?

Answer “Yes” or “No” for each:

Dell \_\_\_\_\_

Western Digital \_\_\_\_\_

Hitachi \_\_\_\_\_

**QUESTION NO. 13:**

What form of royalty do you find should be used to calculate a reasonable royalty in this case?

Place a check by either item 1 or 2 to select the form of reasonable royalty. Then go on to either Question No. 14 OR Question No. 17, but not both.

(1) \_\_\_\_\_ per unit running royalty (go on to Question No. 14)

(2) \_\_\_\_\_ lump sum royalty (go on to Question No. 17)

***DO NOT ANSWER THIS QUESTION IF YOU CHECKED “LUMP SUM ROYALTY” IN RESPONSE TO QUESTION 13.***

**QUESTION NO. 14:**

Were the products sold pursuant to the license from Convolve to Quantum marked with the ‘473 patent?

Yes \_\_\_\_\_

No \_\_\_\_\_

***DO NOT ANSWER THIS QUESTION IF YOU CHECKED “LUMP SUM ROYALTY” IN RESPONSE TO QUESTION 13.***

**QUESTION NO. 15:**

Did Convoke provide actual notice of infringement of the ‘473 patent before Convoke filed the Complaint in this case on June 18, 2008?

Answer “Yes” or “No” for each:

Dell \_\_\_\_\_

Western Digital \_\_\_\_\_

Hitachi \_\_\_\_\_

If you answered “YES” for any of the Defendants, when did Convoke provide actual notice to each Defendant of that Defendant’s alleged infringement of the ‘473 patent?

Please provide a date for each:

Dell \_\_\_\_\_

Western Digital \_\_\_\_\_

Hitachi \_\_\_\_\_



***DO NOT ANSWER THIS QUESTION IF YOU CHECKED “LUMP SUM ROYALTY” IN RESPONSE TO QUESTION 13.***

**QUESTION NO. 16:**

*If you answered “No” to Question No. 15, you may only consider products sold by the particular Defendant after the date that you provided for that defendant in Question No. 15 or June 18, 2008, whichever date is earlier.*

What sum of money in the form of a ***per unit running royalty***, do you find is adequate to compensate Convolve for the conduct you found to infringe from the start of infringement through today?

Dell \_\_\_\_\_ (number of infringing units)  
X \$ \_\_\_\_\_ per unit  
= \$ \_\_\_\_\_ total

Western Digital \_\_\_\_\_ (number of infringing units)  
X \$ \_\_\_\_\_ per unit  
= \$ \_\_\_\_\_ total

Hitachi \_\_\_\_\_ (number of infringing units)  
X \$ \_\_\_\_\_ per unit  
= \$ \_\_\_\_\_ total

***If you have answered Question Nos. 1-13 and followed the directions as to whether you were to answer Question Nos. 14-16, please do not answer any more questions just finish the verdict form by signing and dating it.***

*If you answered Question Nos. 14-16, you may skip Question No. 17 and sign and date the verdict form.*

**QUESTION NO. 17:**

What sum of money, in the form of a reasonable *lump sum royalty* covering all past and future sales of Defendant's products, if paid now in cash, would fairly and reasonably compensate Convolve for the conduct you found to infringe?

Answer in dollars and cents, if any:

Dell \_\_\_\_\_

Western Digital \_\_\_\_\_

Hitachi \_\_\_\_\_

*If you have answered Question Nos. 1-13 and followed the directions as to whether you were to answer Question Nos. 14-17, please finish the verdict form by signing and dating it.*

Signed this \_\_\_\_\_ day of July, 2011.

\_\_\_\_\_  
JURY FOREPERSON

Date: July 24, 2011

Respectfully submitted,

/s/ Douglas E. Lumish

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*ATTORNEYS FOR DELL INC.*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was served on all counsel of record by electronic service as authorized by Local Rule CV-5(a)(3)(C) on July 24, 2011.

Dated: July 24, 2011

/s/ *Deron R. Dacus*  
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